

COMMUNITY REVIEW BOARD ON POLICE PRACTICES

A G E N D A

Tuesday, May 22, 2018

**Balboa Park, Santa Fe Room
2144 Pan American Road West
San Diego, CA 92101**

A quorum of twelve (12) board members is needed to conduct business. If you cannot attend, please call the CRB Complaint Coordinator at (619) 236-6296.

CLOSED SESSION 4:30 p.m. – 5:30 p.m.

Board Members and Staff Only

- I. Call to Order
- II. Legal Opinion(s) Request & Attorney/Client Privileged Response(s) (0)
- III. San Diego Police Department Feedback on Case Specific Matters Only
- IV. Shooting Review Board Reports (0)
- V. Category II Case Audit Reports (0)
- VI. Discipline Reports (0)
- VII. Case Review Team Reports (2)
- VIII. Case-Specific Recommendations to the Mayor (0)
- IX. Referrals to other governmental agencies authorized to investigate activities of a law enforcement agency (0)

Pursuant to California Government Code Section 54957 — To discuss community complaints brought against San Diego Police Department Officers under California Penal Code Section 832.7.

OPEN/PUBLIC MEETING 6:00 p.m. – 8:00 p.m.

Open to the Public

- I. CALL TO ORDER/WELCOME (Chair Doug Case)
- II. PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES
- III. APPROVAL OF MINUTES: CRB Open Meeting Minutes of April 24, 2018
- IV. NON-AGENDA PUBLIC COMMENT: (Speaker Slip Required)
- V. EDUCATIONAL TOPIC: "Policing & San Diego's Immigrant Communities" (15 mins)
Presenter: Andrea Guerrero – Executive Director, Alliance San Diego

- VI. EDUCATIONAL TOPIC: "Update on the Appointment Process" (5 mins)
Presenter: John Ly -Director of Appointments, City of San Diego
- VII. UNFINISHED BUSINESS (DISCUSSION/ACTION): None
- VIII. NEW BUSINESS (DISCUSSION/ACTION): None
- IX. COMMITTEE REPORTS (DISCUSSION/ACTION)
- A. Continuing Education Committee (Pieter O'Leary)
 - Upcoming Education Topics/Guest Speakers
 - B. Outreach Committee (Taura Gentry)
 - Monthly Calendar of Events/Outreach Opportunities
 - C. Rules Committee (Brandon Hilpert)
 - Case Review Turnaround Timelines Status
 - Audit of Category II Case
 - Case Summaries for Publication
 - CRB Bylaws Revisions
 - D. Policy Committee (Joe Craver)
 - 1) SDPD policy of allowing police officer's representatives representing many officers on the same case (Nancy Vaughn)
 - 2) Recommendations to SDPD
 - a. Use of the Carotid Restraint - The CRB recommends that the San Diego Police Department (SDPD) remove Carotid Restraint from 1.04 (Use of Force Policy) for Active Resistance Behavior and retain for Assaultive or Life-Threatening Behavior. If SDPD uses the Carotid Restraint on a person, the person must be transferred to a medical facility. The CRB further recommends that the Carotid Restraint to not be used on officers in training.
 - b. Documentation of Evidence - The CRB recommends that when any branch of the San Diego Police Department ("SDPD") shares evidence with the San Diego Medical Examiner's Office ("ME") regarding an in-custody death or officer- involved shooting, SDPD must thoroughly document in writing each piece of evidence shared with the ME, including, but not limited to, Body Worn Camera ("BWC") footage. SDPD should document the date and time the evidence is shared, the title of the evidence, who it was shared by, whom it was shared with, whether the ME retained the evidence, and in the case of BWC footage, the date and time the video was shown, the title of each video clip shown, whether each

video was viewed in its entirety, and the names of everyone (including SDPD personnel) who viewed the video(s). This information must become part of the Internal Affairs file and must be available for Community Review Board members to review.

- E. Recruitment & Retention Committee (Maria Nieto-Senour)
 - Schedule Next Meeting Date
- F. Nominations Committee (Sheila Holtrop)
 - Nominations of Candidates for CRB Officer Positions for FY2019 (July 1, 2018-June 30, 2019)
- X. CHAIR'S REPORT (Chair Doug Case)
 - A. Status of Implementation of Measure G Ordinance
 - B. Training of New Members (Content, timeline, etc.)
 - C. Reporting of Hours
 - D. Update on the City Council Budget Review Committee Meeting
 - E. CRB Liaison for Citizens Advisory Board on Police Community Relations
 - F. Update on the City Council Rules Committee Re: Women Occupy Proposed Charter Amendment
 - G. Work Plan Update
 - H. Relationship Building Retreat (Schedule for after July 4th)
- XI. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)
 - A. Caseload Update & Status of Case Reports
 - B. Community Events/Forums/Meetings
 - C. CRB Website Updates- Policy Changes Accomplishments & Calendar List
 - D. Other Items/Reminders
- XII. SAN DIEGO POLICE DEPARTMENT REPORT (Executive Assistant Chief Todd Jarvis)
 - A. Status of CRB Recommendations
 - Recommendation that SDPD require an officer writing a report in a use of force incident, not to view video prior to writing report & prior to being interviewed in in-custody death & officer-involved shooting cases. In addition, the officer should have the option of writing a supplemental report after viewing the BWC video.
 - Recommendation for SDPD to adopt a de-escalation policy and use Baltimore's policy as a model
 - Recommendation for SDPD to change unlawful detention & unlawful search and seizure complaints to Category I
 - B. Other Items
- XIII. BOARD MEMBER RIDE-ALONG REPORTS (2 mins each)

XIV. BOARD MEMBER ANNOUNCEMENTS/COMMENTS

XV. ADJOURNMENT

Materials Provided:

- Minutes from CRB Open Session Meeting on April 24, 2018
- Minutes from CRB Policy Committee Meeting on May 8, 2018 (DRAFT)
- SDPD Use of Force Matrix
- Nominating Committee Selection Criteria
- Officer Responsibilities

Public Comment on an Action/Discussion Item: If you wish to address the Board on an item on today's agenda, please complete a speaker form (on the table near the door) and give it to the Board's Executive Director before the Board hears the agenda item. You will be called to express your comment at the time the item is heard. Please note, however, that you are not required to register your name or provide other information to the Board in order to attend our public session or to speak.

Public Comment on Committee/Staff Reports: Public comment on reports by Board Committees or staff may be heard on items which are specifically noticed on the agenda.

Public Comment on Matters Not on the Agenda: If you wish to address the Board on any matter within the jurisdiction of the Board that is not listed on today's agenda, you may do so during the PUBLIC COMMENT period during the meeting. Please complete a speaker form (on the table near the door) and give it to the Board's Executive Director. The Board will listen to your comments. However, California's open meeting laws do not permit the Board to take any action on the matter at today's meeting. At its discretion, the Board may refer the matter to staff, to a Board committee for discussion and/or resolution, or place the matter on a future Board agenda. The Board cannot hear specific complaints against named individual officers at open meetings.

Comments from individuals are limited to three (3) minutes per speaker, or less at the discretion of the Chair. At the discretion of the Chair, if a large number of people wish to speak on the same item, comment may be limited to a set period of time per item. If you would like to have an item considered for placement on a future Board agenda, please contact the Executive Director at (619) 236-6296. The Director will consult with the Board Chair who may place the item on a future Board agenda. If you or your organization would like to have the Board meet in your neighborhood or community, please call the Executive Director at (619) 236-6296.

This agenda will be made available in alternate formats upon request, as required by the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Requests for disability related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, should be forwarded to communityreviewboard@sandiego.gov, or call (619) 236-6296.

**SAN DIEGO POLICE DEPARTMENT
PROCEDURE**

DATE: 11/22/2013
NUMBER: 1.04 - ADMINISTRATION
SUBJECT: USE OF FORCE
RELATED POLICY: 1.04, 1.05, 1.06
ORIGINATING DIVISION: INTERNAL AFFAIRS
NEW PROCEDURE: ☐
PROCEDURAL CHANGE: ☒
SUPERSEDES: DP 1.04 – 02/09/2012

I. PURPOSE

This Department procedure establishes guidelines on the use of force options available to Department personnel.

II. SCOPE

This procedure applies to all members of the Department.

III. BACKGROUND

The San Diego Police Department recognizes and respects the value of human life, having this as its highest priority. It is the policy and practice of the Department to train its personnel in the use of the safest, most humane restraint procedures and force options currently known. The Department seeks to demonstrate integrity, and make decisions that are fair, respectful, lawful, and based on good judgment.

In the performance of their duties, officers may encounter situations where the use of force is reasonable in order to affect a detention or arrest, to overcome resistance, or to protect themselves or others. Force, as authorized by Penal Code section 835a, and as set forth in this policy, may be used in those situations. The decision to use deadly force in response to an imminent threat of death or serious bodily injury to the officer or another person is one of the most critical decisions an officer will ever be called upon to make.

Only force that is reasonable to overcome resistance may be used to affect a detention or an arrest, or take a mentally ill or emotionally disturbed person into protective custody.

The U.S. Supreme Court in Graham v. Connor, 490 U.S. 386 (1989), acknowledged that the “reasonableness” test in analyzing the use of force is “not capable of precise definition or mechanical application.” For that reason, in determining whether an officer’s use of force is reasonable in a particular case, it is necessary to evaluate the facts and circumstances confronting the officer at the time that force was used. All of the surrounding circumstances will be considered, including whether the subject posed an imminent threat to the safety of the officer or others, the severity of the crime at issue, and whether the suspect actively resisted arrest or attempted to flee.

Penal Code section 835a authorizes an officer to use reasonable force to make a lawful arrest, prevent an escape, or to overcome resistance. Officers are not required to retreat or desist from their efforts by reason of resistance or threatened resistance of the person being arrested.

The evaluation of an officer’s use of force will be undertaken from the perspective of a reasonable officer on the scene, not through the 20/20 vision of hindsight. The central inquiry in every use of force case is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer.

IV. DEFINITIONS

- A. Active Resistance - behavior that consists of a refusal to comply with verbal commands and conveys a threat to the officer or another person, or consists of physical opposition to attempts of control by the officer.
- B. Assaultive Behavior - behavior that consists of aggressive physical opposition to being physically controlled and conveys a threat of injury to the officer; or, behavior that consists of a threat of attack conveyed through aggressive physical actions or aggressive physical actions coupled with verbal threats. Verbal threats alone do not constitute assaultive behavior. Assaultive behavior can be directed at the officer or others.
- C. Compliant Behavior - behavior that complies with the officer’s verbal commands.
- D. Crowd Control and Mobile Field Force Techniques - levels of force that include close range strikes with an impact weapon. These strikes are designed to redirect or move a subject who fails to follow verbal commands. The amount of force used in delivering the strike should be reasonable given the circumstances. The intent of the technique is to move a subject backwards or to the side.
- E. Deadly Force - force that creates a substantial risk of causing death or serious bodily injury.

- F. Defending Force - the force needed to stop assaultive behavior against an officer or another person. This level of force generally involves impact strikes by the officer. Impact strikes can be delivered either by personal body weapons (i.e., hands, feet, knees, etc.) or impact weapons (i.e., PR-24, OPN, Baton, Flash light). Due to the potential for serious injury, intentional strikes with an impact weapon are prohibited from being directed at the head, face or throat of the subject unless the subject's actions and behavior pose an imminent threat of death or serious bodily injury to the officer or others.
- G. Distraction Techniques - acts used to divert or redirect a subject's focus away from resistive behavior in order to assist the officer in gaining control of the individual. Distraction techniques may include a controlled strike, using a lower level of force aimed at a specific area which is not intended and not likely to cause injury. Personal body weapons may be used under these constraints, when lesser controlling force has not been effective or the officer reasonably believes lesser controlling force will not be effective. If a distraction technique proves ineffective, a different distraction technique or force option should be considered.
- H. Force - the act of gaining and/or maintaining control of a subject or situation.
- I. Greater Controlling Force - the force needed to control a subject who engages in active resistance. This level of force may involve the use of techniques such as takedowns, distractions techniques, chemical agents, and the carotid restraint.
- J. Lesser Controlling Force - the force needed to control a subject who engages in passive resistance. This level of force generally involves use of physical strength, pain compliance defense techniques, and control holds.
- K. Life-threatening Behavior - behavior likely to cause serious bodily injury or death.
- L. Passive Resistance - behavior that consists of a refusal to comply with verbal commands and does not convey a threat to the officer or another person.
- M. Verbal Control - a tactic used when encountering compliant behavior. Such control consists of the officer's mere presence, requests, explanations and orders.

V. PROCEDURES

- A. Force, as defined above, may be used to affect an investigative detention or arrest; control a subject who is in lawful custody; prevent an escape; or, protect the officer, the subject, or another person from injury or death. Any time force is used, the officer shall apply a level of force that is reasonable for the situation.

- B. Officers should use caution when using a takedown technique on a handcuffed prisoner. There is potential for injury since the prisoner's hands are behind his or her back, and they have no way of breaking their fall. If possible, when the person is handcuffed, officers should consider other controlling methods prior to a takedown.
- C. The use of canines, extended range impact weapons, and standard impact weapon techniques can be used to control an actively resisting subject reasonably believed to possess, or have immediate access to, a deadly weapon.
- D. Officers should maintain control of enforcement situations. Officers who are not readily identifiable as police officers, whether on- or off-duty, shall identify themselves as police officers, unless identification would jeopardize the safety of the officer or others. Subjects should not be allowed to gain the advantage in a physical confrontation. Officers may need to use a force option which is greater than the subject's force level and which is reasonable under the circumstances.
- E. The use of force by an officer can be viewed as a matrix of force options that can be used in response to a subject's actions and behavior. The matrix is designed to assist officers in understanding how force can escalate and assist officers in documenting the subsequent force used. The force matrix illustrates the relationship between a subject's actions and the officer's response. As force options move from lesser to greater levels, the risk of injury to the subject and/or officer increases. However, there may be situations and circumstances that do not conform to this matrix. Officers who experience those unusual situations must use only that amount of force that is reasonable, based upon the subject's actions and behavior.
- F. The Force Matrix is broken down into the following five levels:
 - 1. First level – officers attempt to gain compliance by talking or otherwise communicating with the subject, explaining what the subject is to do and giving the subject the opportunity to comply with the officer's demands.
 - 2. Second level – officers use control tactics, such as escorting or compression and pain compliance techniques, on subjects displaying passive resistant behavior. Controlling force is used when the subject passively fails to respond to verbal direction.
 - 3. Third level – officers seek to control a subject's active resistance by using lesser force options, in addition to neck restraint, chemical agents, distraction techniques, and taser.

4. Fourth level – officers defend themselves or others against a subject's assault, or threat of assault, with the use of defending force or lesser force options. Defending force includes strikes with hard impact and personal body weapons.
 5. Fifth level – officers defend themselves or others against the subject's life-threatening behavior with the use of deadly force.
- G. Various factors, which pertain to officers and/or subjects, will effect an officer's force options and tactics. These factors include, but are not limited to, the following:
1. Age;
 2. Availability of other options;
 3. Confined spaces;
 4. Ground fighting;
 5. Distance between subject(s) and officer(s);
 6. Influence of alcohol or drugs;
 7. Injury/disability;
 8. Location/terrain/lighting conditions;
 9. Multiple subjects/officers;
 10. Nature of offense;
 11. Proximity to weapons;
 12. Size;
 13. Skill;
 14. Special knowledge/imminent danger;
 15. Strength/endurance: and,
 16. Crowd control situations.
- H. Use of Firearms

1. Officers shall not discharge any firearm in the performance of their duties, except as authorized by this Department procedure.
2. No officer shall discharge a firearm in the performance of duty except:
 - a. During authorized training at a target range;
 - b. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person;
 - c. When necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect's escape would pose an imminent threat to the officer or others; or,
 - d. As permitted by Department Procedure 6.09, Handling of Injured Animals.
3. A verbal warning to submit to the authority of the officer shall be given prior to the use of a firearm, if feasible, and if doing so would not increase the danger to the officer or other persons.
4. Officers shall exercise the utmost care in their handling and use of firearms while engaged in the performance of their duties and while exercising their option to carry a loaded and concealed weapon while off-duty. Factors that should be considered before an officer discharges a firearm include, but are not limited to, the following:
 - a. Immediacy of the threat;
 - b. Suspect(s) age, size, skill, injury, or disability;
 - c. Environment (field of fire);
 - d. Capabilities of the suspect's weapon;
 - e. Officer's present capability with the weapon; and,
 - f. Type of crime.
5. Firearms are found to be generally ineffective in stopping vehicles. Firearms shall not be discharged at a vehicle solely in an attempt to

disable the vehicle. Officers shall consider the ramifications when shooting at moving vehicles, such as:

- a. Moving vehicles present a rapidly changing field of fire;
 - b. If the driver is incapacitated, the vehicle would be uncontrolled; or,
 - c. The action could create a danger to the public that outweighs the need to use deadly force.
6. Officers shall not discharge a firearm at an occupant of a vehicle unless:
- a. The officer has probable cause to believe that the subject or the vehicle poses an **immediate threat of death or serious physical harm to the officer and there is no reasonable alternative for the officer to avoid the harm;** or,
 - b. The officer has probable cause to believe that the subject or the vehicle poses an **immediate threat of death or serious physical harm to other persons.**
7. Officers shall not knowingly position themselves in the path of a moving vehicle.
8. Warning shots present a danger to the officer and other persons. They are prohibited, except under exigent circumstances when:
- a. The officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person.
 - b. The warning shot is necessary to apprehend a fleeing suspect if there is probable cause to believe the suspect has committed a felony involving the infliction or threatened infliction of death or serious bodily injury, and the officer reasonably believes the suspect is armed with a deadly weapon and the suspect's escape would pose an imminent threat to the officer or others.
9. Firearms are not designed or intended for use as impact weapons and shall not be used to strike another person, except when necessary to protect the officer or another person from death or serious bodily injury.

VI. REPORTING THE USE OF FORCE

A. Officers who use force shall ensure that detailed, accurate reports (arrest, detention, or ARJIS-9) describing the force used and all of the circumstances and facts surrounding the use of that force are prepared, including, but not limited to, factors listed in the Force Matrix section of this procedure. In addition, force effectiveness statistical data is also collected whenever force is used. When using the Automated Field Reporting (AFR) application, users will be prompted for the required information. When necessary to complete handwritten reports, officers shall use the Force Effectiveness Application to enter the data.

B. Reportable Force

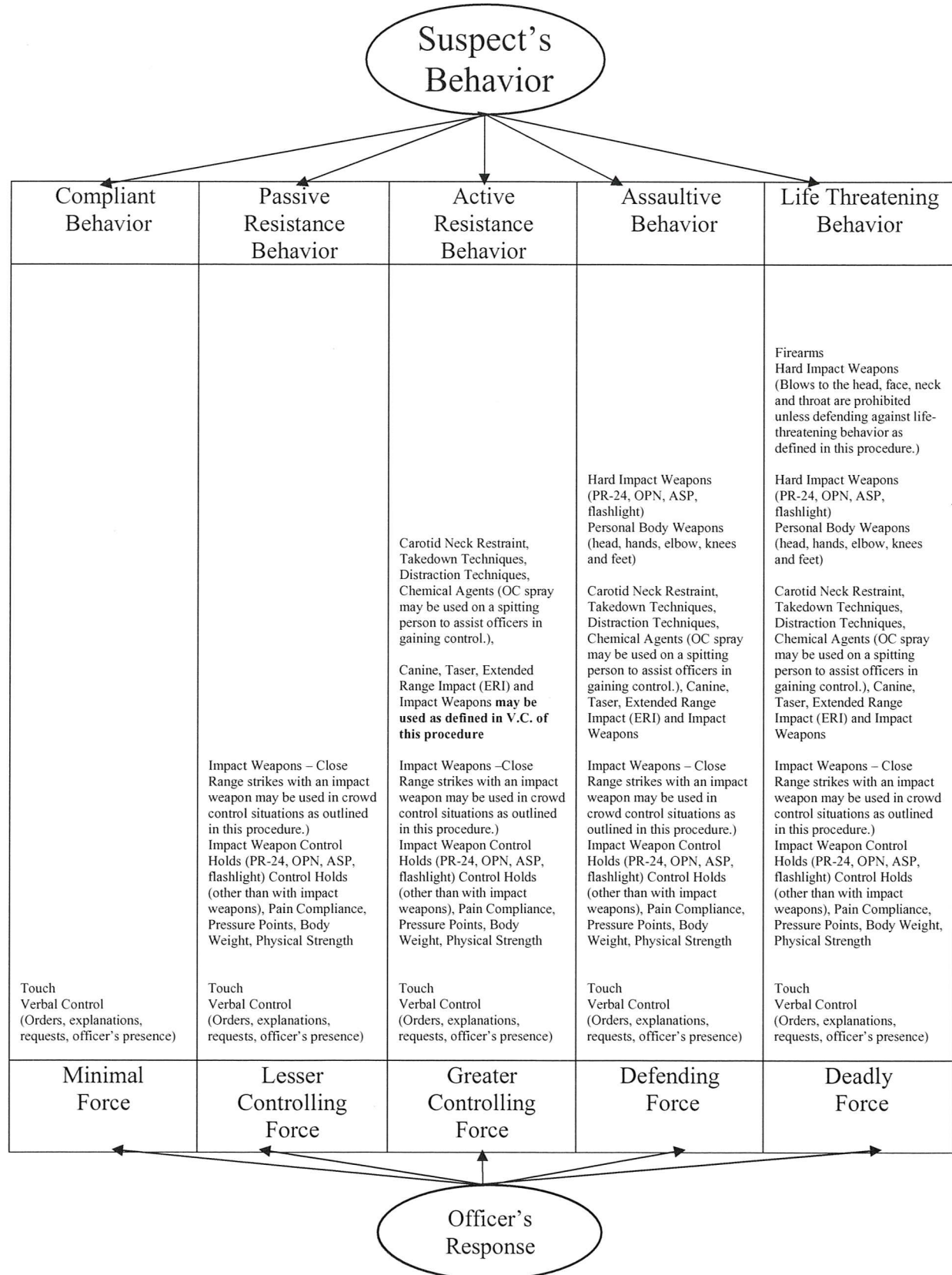
For reporting purposes, the following are considered use of force incidents requiring a report:

1. Any force option, control hold, or weaponless defense technique applied to a person, or any force that causes injury or complaint of injury to either the officer or the subject being restrained;
2. Discharge of a firearm in an official capacity;
3. Discharge of a taser;
4. Use of the baton, police nunchaku (OPN), or other impact weapons where the suspect has been struck;
5. Use of any type of chemical agent (mace, OC, etc.);
6. Use of carotid restraint;
7. Use of a police service dog, when a bite or other injury occurs;
8. Use of a cord cuff;
9. Use of a safety control chair, as outlined in Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures;
10. Use of restraint car seats, as outlined in Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures;
11. When the officer overcomes physical resistance to applying the handcuffs;
12. Use of "specialty munitions," as defined in Department Procedure 1.36, Use of Specialty Munitions; and,

- C. Officers who use a force option shall personally prepare the appropriate report (arrest, detention, ARJIS-9) documenting their use of force. An exception to an officer personally preparing a document (detailing force used) is if an SDPD investigator interviews the officer and his/her statements (regarding the force used) are documented in the investigator's report.
- D. In the event San Diego Police Department officers are involved in a situation with an outside agency, the involved SDPD officers must document any use of reportable force by personnel of said agency. The reporting officer shall request documentation from the officers/deputies of the outside agency who deployed force options, describing their use of force.
- E. Whenever physical force used by an officer results in an injury that necessitates medical treatment of any person, the officer shall immediately contact a field supervisor (Refer to Department Procedure 6.01, Handcuffing, Restraining, Searching, and Transporting Procedures).
 - 1. The field supervisor shall evaluate the circumstances surrounding the incident.
 - 2. When appropriate, the field supervisor shall notify the Watch Commander and/or field lieutenant.
 - 3. If the Watch Commander or field lieutenant deems the incident to be of significant magnitude, Internal Affairs will be notified and given the opportunity to respond and conduct an on-scene investigation.
 - 4. If Internal Affairs responds to the scene, the Watch Commander shall immediately telephone the Police Officers' Association and report the general nature of the incident.
 - 5. All statements made by the subject regarding his/her alleged or apparent injury should be documented.
 - 6. Photographs shall be taken to document the existence or absence of injury to the subject, officers, or other persons. Photographs shall also be taken of any damage to the clothing or personal property of the subject, officers, or other persons at the scene. The photographs shall be impounded as evidence.

SAN DIEGO POLICE DEPARTMENT

Use of Force Matrix



COMMUNITY REVIEW BOARD ON POLICE PRACTICES

POLICY COMMITTEE MEETING MINUTES

Tuesday, May 8, 2018

4:00-5:00 PM

Mission Valley Branch Library

2123 Fenton Parkway, San Diego, CA 92108

Members Present

Committee Chair Joe Craver
CRB Chair Doug Case
Darwin Fishman (Prospective)

Maria Nieto-Senour
Pauline Theodore
Nancy Vaughn

Members Absent

Taura Gentry
Richard Stanford

Staff Present:

Sharmaine Moseley, Executive Director, CRB
Wes Morris, Captain, San Diego Police Department
Adam Sharki, Lieutenant, San Diego Police Department
Mark Bennett, Lieutenant, San Diego Police Department
Jessie Holt, Detective, San Diego Police Department

- I. Call to Order: 4:05pm**
- II. Public Comment: Anita W.T, Buki Domingos, Marsha Grosko, Michael Brackney, Walter Cameron, Stone Eastman, Martin Eder, Daniel Eder**
- III. Approval of Minutes:** Pauline Theodore moved to approve the meeting minutes of March 13, 2018. Nancy Vaughn second the motion. The motion passed unanimously. Vote 5-0 (Joe Craver-yea, Doug Case-yea, Maria Nieto-Senour-yea, Pauline Theodore-yea, Nancy Vaughn-yea)
- IV. New Business (Discussion/Action):**

- a. SDPD policy of allowing police officer's representatives representing many officers on the same case – SDPD or CRB does not have the authority to restrict who can represent its officers. Under the Peace Officers Bill of Rights (POBAR), officers have the right to select who they want to represent them. The CRB can make comments in its reports about each officer having the same representative and may have been coached.

Nancy Vaughn will read the response from the CRB's Outside Counsel to the Board at its May 22, 2018

- b. Development of third-party mediation (CRB Student Assistant-Research) – New SDSU student will begin internship later this month. Will continue research at that time. Item Tabled
- c. SDPD Policy for Use of Carotid Restraint (Committee Chair Joe Craver)

ACTION: Motion by Maria Nieto-Senour, second by Nancy Vaughn to recommend that SDPD remove the Carotid Restraint from its Use of Force Policy (DP 1.04) Motion Failed

Vote 2-3: Doug Case-nay; Joe Craver-nay; Pauline Theodore-nay; Nancy Vaughn-yea; Maria Nieto-Senour-yea

ACTION: Motion by Doug Case, second by Nancy Vaughn to recommend that the San Diego Police Department (SDPD) remove the Carotid Restraint from 1.04 (Use of Force Policy) for Active Resistance Behavior and retain for Assaultive or Life-Threatening Behavior. If SDPD uses the Carotid Restraint on a person, the person must be transferred to a medical facility. The CRB further recommends that the Carotid Restraint to not be used on officers in training.

Vote 3-2: Nancy Vaughn-yea; Doug Case-yea; Pauline Theodore-yea; Joe Craver-nay; Maria Nieto-Senour-nay

This motion will go to the Board for consideration at its May 22 meeting.

- d. Review SDPD Use of Force Policy & PERF Guiding Principles on Use of Force in Relation to Persons with Mental Health Issues (Doug Case) – Doug Case circulated a handout on SDPD's Training for Dealing with Persons with Mental Illness and/or Emotional Disabilities. He asked the Committee members to read it prior to the next Policy Committee Meeting as it will be discussed at that time.**
- e. Review SDPD Policy of allowing officers to view video other than their own video prior to being interviewed by IA – A recommendation was made by the CRB to recommend this item to SDPD. At its April 24, 2018 meeting, the Board voted on a revision so that it will not conflict with a second BWC recommendation previously made by the Board. CRB Executive Director will draft a letter to the Chief regarding the recommendation from the Board.**
- f. Recommend to SDPD that when any branch of the San Diego Police Department ("SDPD") shares evidence with the San Diego Medical Examiner's Office ("ME") regarding an in-custody death or officer-involved shooting, SDPD must thoroughly document in writing each piece of evidence shared with the ME, including, but not limited to, Body Worn Camera ("BWC") footage. SDPD should document the date and time the evidence is shared, the title of the evidence, who it was shared by, whom it was shared with, whether the ME retained the evidence, and in the case of BWC footage, the date and time the video was shown, the title of each video clip shown, whether each video was viewed in its entirety, and the names of everyone (including SDPD personnel) who viewed the video(s). This information must become part of the Internal Affairs file and must be available for Community Review Board members to review.**

ACTION: Motion by Nancy Vaughn, second by Maria Nieto-Senour that this item be forwarded to the Board for consideration.

Vote 5-0: Joe Craver-yea, Doug Case-yea, Maria Nieto-Senour-yea, Pauline Theodore-yea, Nancy Vaughn-yea

Prospective member Darwin Fishman inquired as to why was he allowed to vote at other meetings of the Policy Committee and not at its March meeting. Executive Director Moseley replied that she will research his inquiry and report back at the next Policy Committee Meeting. Doug Case stated that it was probably because Mr. Fishman was an Alternate member during the times he voted. Alternate members can vote.

V. Adjourned: 4:55pm

Nominating Committee Selection Criteria

Selection Criteria Used in Past Nominations:

1. Time Commitment: The willingness and availability to fulfill the duties of the office. Duties are often during work hours, as well as after hours.
2. Past attendance at CRB meetings / case review / required CRB training.
3. Leadership history and potential. Past or present Team leadership, committee chair, a professional leadership position or leadership skills exhibited during past CRB Service
4. Opportunity for external focus. Exhibit a willingness and ability to represent the Board to the public, SDPD, and other agencies
5. The ability to work with others using accepted decorum and good judgment. Always treat all others (internal and external individuals) with respect
6. A willingness and potential to serve in a higher office in the future
7. Ability to follow rules and procedures

Section 3: Powers and Duties

The officers of this organization shall fulfill the duties of office while always acting for the good of the entire Board.

A. Chair

The Chair shall have the following powers and duties:

1. To serve as Chair for all meetings, Closed and Open, of the Board.
2. To serve as Chair for all meetings of the Executive Committee.
3. To serve as a member of the Cabinet.
4. To act as the spokesperson for the Board, to make official statements for the Board, or to delegate this responsibility to another Board Member.
5. To coordinate with the Executive Director on communication between the Board and the Mayor, the San Diego City Council and the Chief of Police.
6. To appoint Chairs and members for all Committees of the Board, except the Nominating Committee.
7. To be ex officio member and ensure effective functioning of all committees of the Board, except the Nominating Committee.
8. To facilitate communication between Case Review Team Leaders.
9. To serve on a temporary Case Review Team when case load requires formation of a temporary Team by the Executive Director.
10. To perform such other duties as may be conferred by vote of the Board.

B. First Vice Chair

The First Vice Chair shall have the following powers and duties:

1. To serve as Chair for all meetings, Closed and Open, of the Board in the absence of the Chair.
2. To serve as a member of the Executive Committee.
3. To serve as a member of the Cabinet.
4. To oversee training of Prospective Members with the Recruitment and Training Committee, and to oversee training of the Team Leaders.
5. To serve on a temporary Case Review Team when case load requires formation of a temporary Team by the Executive Director.
6. To perform such other duties as may be conferred by vote of the Board or requested by the Chair.

C. Second Vice Chair

The Second Vice Chair shall have the following powers and duties:

1. To serve as Chair for all meetings, Closed and Open, of the Board in the absence of the Chair and the First Vice Chair.
2. To serve as a member of the Executive Committee.
3. To serve as a member of the Cabinet.
4. To serve as a member of a Case Review Team.
5. To act as Parliamentarian for the Board.
6. To perform such other duties as may be conferred by vote of the Board or requested by the Chair.



COMMUNITY REVIEW BOARD ON POLICE PRACTICES

MINUTES

**Tuesday, April 24, 2018
Skyline Branch Public Library
7900 Paradise Valley Road
San Diego, CA 92139**

Members Present:

Doug Case, Chair
Brandon Hilpert, 2nd Vice Chair
Diana Dent
Reinaldo Galindo
Taura Gentry
Sheila Holtrop

Pieter O'Leary
Maria Nieto-Senour
Ernestine Smith
Richard Stanford
Nancy Vaughn
Pauline Theodore
Martin Workman

Members Absent:

Joe Craver, 1st Vice Chair
Mary O'Tousa

Prospective Members Present: N/A

Prospective Members Absent:

Greg Daunoras
Darwin Fishman
Jonathan Colby (LOA)

Staff Present:

Sharmaine Moseley, Executive Director, CRB
Todd Jarvis, Executive Assistant Chief, San Diego Police Department
Wes Morris, Captain, San Diego Police Department
Adam Sharki, Lieutenant, San Diego Police Department
Mark Bennett, Lieutenant, San Diego Police Department
Jessie Holt, Detective, San Diego Police Department

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- I. **CALL TO ORDER/WELCOME:** Chair Doug Case called the meeting to order at 6:05 p.m.

II. **PURPOSE OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES:**

Chair Doug Case explained the purpose of the Community Review Board on Police Practices (CRB) to those in attendance.

III. **APPROVAL OF MINUTES:** Motion was made by Nancy Vaughn and seconded by Pauline Theodore to approve the CRB minutes of March 27, 2018. Motion passed unanimously.

IV. **NON-AGENDA PUBLIC COMMENT:**

1. Mary Duty
2. Kate Yavenditti

V. **EDUCATIONAL TOPIC: SDPD Early Intervention System for Officer Behavior**

Presenters: SDPD Sgt. Daniel Meyer & Officer Sergio Zamora

Sgt. Daniel Meyer provided the Board with an overview of the Early Intervention System and how it works to track and identify officers who might need intervention. The system is not used to discipline the officers.

VI. **TOPIC: Proposed FY 2019 Communications Plan for the CRB**

Guest Speaker: Alma Rife – Senior Public Information Officer
City of SD Communications Department

Ms. Rife introduced herself to the Board. She referenced the FY19 plan in the meeting and described its contents. Ms. Rife described the various types of support that the Communications Department will provide to the CRB to increase transparency and visibility. The support will be inclusive but not limited to media support, drafting the CRB in Spanish, graphic design of the CRB's Annual Report, scheduling news appearances, and posting meeting onto City's Social Media platforms.

VII. **UNFINISHED BUSINESS (DISCUSSION/ACTION):** None

VIII. **NEW BUSINESS (DISCUSSION/ACTION)**

A. Election of Ad Hoc Nominating Committee Members

Nominees for the Nominating Committee Members

O'Leary	Galindo	Holtrop	Smith	Workman
Marty	Ernestine	Marty	Marty	Diana
Dick	Maria	Diana	Diana	Dick
Brandon	Nancy	Dick	Taura	Brandon
Sheila	Rey	Brandon	Pauline	Sheila

Maria		Sheila		Ernestine
Nancy		Ernestine		Taura
Rey		Taura		Pauline
		Maria		
		Nancy		
		Rey		
		Pauline		

The following nominees were elected to serve as members of the Ad Hoc Nominating Committee:

Sheila Holtrop (11 Votes)
Pieter O'Leary (7 Votes)
Marty Workman (7 Votes)

B. Work Plan FY19

Nancy Vaughn moved for the Board to approve the Work Plan for Fiscal Year 19 with a correction that the Nominating Committee is elected at the April open meeting. Taura Gentry second the motion. The motion passed with a vote of 11-0-1 with the Chair abstaining.

C. Reword the previous CRB Recommendation (Voted on at 11.28.17 Open Meeting)

"The CRB recommends that the SDPD establish a policy that would prohibit officers from viewing Body Worn Camera (BWC) videos except their own BWC video, prior to being interviewed by Internal Affairs."

To the following wording, so it does not conflict with the CRB's recommendation on an officer reviewing their own BWC:

"The CRB recommends that the SDPD establish a policy that would prohibit officers from viewing surveillance videos or Body Worn Camera (BWC) videos of other officers prior to being interviewed by Internal Affairs."

Nancy Vaughn moved to approve the recommendation. Pauline Theodore second the motion. The motion passed by a vote of 11-0-1 with the Chair abstaining.

IX. COMMITTEE REPORTS (DISCUSSION/ACTION)

A. Continuing Education Committee (Pieter O'Leary)

- i. Upcoming Education Topics/Guest Speakers: Chair Doug Case stated that Committee Chair Pieter O'Leary was not present to**

discuss this item. Chair Case reported that Committee Chair O'Leary lined up a speaker for the May Open Meeting.

B. Outreach Committee (Taura Gentry)

- i. Monthly Calendar of Events/Outreach Opportunities- Committee Chair Gentry highlighted some of the upcoming events on the CRB's new calendar. She mentioned the CRB having a presence at this year's Unity Games, Juneteenth, and SDPD's Black Office event that will be recognizing past Black officers. Committee Chair Gentry also mentioned that she will be attending a Lamplighters Scholarship Luncheon. She encouraged CRB attendance at the meetings and events listed on the calendar.

C. Rules Committee (Brandon Hilpert)

- i. Case Review Turnaround Timelines Update: Committee Chair Brandon Hilpert stated that this new timeline is in effect. He asked if it's something that should be formalized. Executive Director Sharmaine Moseley responded that it should be formalized.
- ii. Audit of Category II Case: Committee Chair Hilpert reported that the Committee is working with the Chief and SDPD to formalize the auditing of Category II cases beginning with the new fiscal year on July 1, 2018.
- iii. Case Summaries for Publication: Committee Chair Hilpert reported that the Committee agreed for him to use his current case to draft an example to be forwarded to the CRB Chair/Executive Director, Outside Counsel, SDPD, IA, and the POA for feedback. After review, the Rules Committee will revise and re-recommend a path to publish summaries.
- iv. Develop New Bylaws: Committee Chair Hilpert reported that due to the passage of Measure G and the implementation of the ordinance, the CRB's Rules Committee will have to revise its Bylaws. The Rules Committee will be reviewing the Bylaws at its next meeting on May 1st at 9:30am.

D. Policy Committee (Joe Craver)

Chair Doug Case stated that Committee Chair is out of the country until this month. He explained that this was why the Policy Committee did not meet this month. He further stated

that the Committee will consider the Use of the Carotid Restraint item at its May meeting.

E. Recruitment & Retention Committee (Maria Nieto-Senour)

- i. Committee Chair Maria Nieto-Senour reported that the committee will be scheduling another meeting.

X. **CHAIR'S REPORT** (Chair Doug Case)

A. Status of Implementation of Measure G Ordinance

Chair Doug Case reported that the ordinance is being reviewed by City Attorney Staff and plan to go before Council in May.

B. Reporting of Hours – Reminded members to report their hours online so we have an accurate count of volunteer hours for this fiscal year ending June 30.

C. Update on Meeting with Police Chief and Police Officers Association – Topics included:

- 1. Sharing of all complaint information via access to a shared database, such as IAPRO or Sharepoint. Chief Nisleit concurred and will research the most efficient way of accomplishing this.
- 2. Online policies and procedures – Chief Nisleit is in the process of making this happen.
- 3. Case Information on CRB Website – This might require a meet and confer with the SDPD. We will be proceeding with a proposal.
- 4. CRB Policy Recommendations – We presented the memo with the policy recommendations made at the March 27 CRB meeting (re: reviewing an officer's own BWC prior to report writing or IA interview, creating a de-escalation policy, and changing search and seizure and unlawful detention complaints to Category 1. The Chief agreed to research each recommendation and respond in writing in a timely manner.
- 5. Future Meetings – The CRB Chair requested that we continue these meetings twice a year and the Chief suggested quarterly meetings.

D. Update on Meeting with Chair of Citizens Advisory Board on Police Community Relations – We discussed collaborative efforts with regard to policy recommendations, sharing of posted agendas on our respective websites, the SDPD recruitment process, and a possible joint forum between the CRB, CAB, and Gang Prevention and Intervention Commission.

- E. Report on the City Council 4/11 Rules Committee Meeting Re: Women Occupy Proposal – The proposal would create an independent commission with independent legal counsel, the power to subpoena civilian witnesses, the duty to independently investigate officer involved shootings and in-custody deaths, the power to independently investigate any complaint, the power to investigate sexual misconduct regardless of whether a complaint was filed, the power to hire investigators and policy analysts, and the power to make recommendations to the SDPD regarding discipline of individual officers. The City Council Rules Committee continued this item to their June 13 meeting and requested input from the Chief of Police, the POA and CRB members. The City Attorney has advised that the CRB cannot take a position on a proposed ballot measure but individual members can speak as individuals. Andrea St. Julian, primary author of the proposal, will be available at the CRB Rules Committee meeting on May 1 to answer questions regarding the proposal.

XI. EXECUTIVE DIRECTOR'S REPORT (Sharmaine Moseley)

A. Caseload Update & Status of Case Reports

Today we started off with 11 active cases. Three of those cases were placed on our Closed Session Meeting agenda for review. At that meeting, all 3 of those cases were reviewed and closed out. As a result, the Teams now have a total of 8 active cases.

The CRB closed out a total of 38 cases for FY18. The breakdown of active cases are as follows:

Team 1 – 2 cases

Team 4 – 2 cases

Team 2 – 1 case

Team 5 – 2 cases

Team 3 – 0 cases

Team 7 – 1 case

- B. Community Events/Forums/Meetings – This report was given under the Outreach Committee item.

Summary Past Meetings/Trainings/Outreach all on calendar

SDPD Effective Interactions Training (4.3) ✓
“De-Escalation Role Playing Scenarios”

Pillars of the Community First Saturdays at the Spot (4.7) ✓

CRB Outreach Opportunity – Table & Chairs

SD Rules Committee Meeting Re: Women Occupy Ballot (4.11) ✓
Proposal

Community Assistance Support Team (CAST) Meeting (4.12) ✓

CRB & CAB Collaboration Meeting (ED & Chairs) ✓

BAPAC Hidden Figures Brunch (4.14) ✓

Executive Director Moseley reported that 1st Saturdays is coming up on May 5. This is an event where the CRB does a lot of outreach and is on the CRB calendar for members to attend. Ms. Moseley further reported that rather than having a table, it is more efficient for members to walk around and hand out brochures. CRB members were provided with a revised Upcoming Outreach Meetings/Trainings Calendar for upcoming meetings.

- C. Report to Council's Public Safety & Livable Neighborhoods Committee- Wednesday, April 25th at 9am 12 Floor, City Administration Building – Ms. Moseley reported that the CRB will provide the Committee with an update on process improvements, Work Plan from FY 18 and FY19, and case statistics. CRB members were encouraged to attend. The report and power point were emailed to the Board.
- D. NACOLE Scholarship Deadline May 1 – Encouraged members to fill out scholarship application if they want to attend and would like to be considered for financial assistance.
- E. CRB Website Updates – It was reported that the CRB's policy change accomplishments and new calendar list were added to the website.
- F. Other Items/Reminders (Notice of Intent) – Ms. Moseley reported that she received the notice of intent forms back from most of the members. The names of members who wish to be considered for reappointed on the CRB will be added to a list that would be forwarded to the Mayor's Office. The Mayor will also be soliciting a call for nominations. The City Council will be asked to submit names as well. Ms. Moseley informed the Board that the City's Director of Appointments will be invited to the Board's May Open Meeting to update the Board on the appointment process.

XII. SAN DIEGO POLICE DEPARTMENT REPORT (Executive Assistant Chief Todd Jarvis)

A. Status of CRB Recommendations – Executive Assistant Chief Todd Jarvis reported that Chief Nisleit would be responding to the following CRB recommendations in writing.

- Recommendation that SDPD require an officer writing a report in a use of force incident, not to view video prior to writing report & prior to being interviewed in in-custody death & officer-involved shooting cases. In addition, the officer should have the option of writing a supplemental report after viewing the BWC video.
- Recommendation for SDPD to adopt a de-escalation policy and use Baltimore's policy as a model
- Recommendation for SDPD to change unlawful detention & unlawful search and seizure complaints to Category I

B. Other Items – Executive Assistant Chief Jarvis stated the Chair Case covered all his items throughout the meeting.

XIII. BOARD MEMBER RIDE-ALONG REPORTS: None

XIV. BOARD MEMBER ANNOUNCEMENTS/COMMENTS: None

XV. ADJOURNMENT: 8 p.m.